

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**STUART MINTZ, et al.,
Plaintiffs,**

v.

**UPPER MOUNT BETHEL
TOWNSHIP, et al.,
Defendants.**

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CIVIL ACTION

NO. 12-6719

ORDER

AND NOW, this 19th day of June 2013, upon consideration of the Motion to Dismiss of Defendants North Bangor Fire Company, Frederick Farleigh, and Christopher Louszko (Doc. No. 6), the Motion to Dismiss of Defendants Upper Mount Bethel Township and Edward Nelson (Doc. No. 8), and Plaintiffs' Consolidated Response thereto (Doc. No. 13), **IT IS HEREBY ORDERED** that the Motions are **GRANTED in part and DENIED in part** as follows:

1. Count I is dismissed *with prejudice* in its entirety;
2. Count II is dismissed *with prejudice* as to Moving Defendants;
3. Count III is dismissed *with prejudice* as to Mr. Romano;
4. Count IV is dismissed *without prejudice* insofar as it is premised on the existence of a municipal policy;
5. Count IV is dismissed *with prejudice* insofar as it asserts a claim for punitive damages against Township;
6. Counts II, III, and IV are dismissed *without prejudice* insofar as they are premised on violations of the Fourth Amendment;

7. Count V is dismissed *with prejudice* in its entirety;
8. Count VI is dismissed *without prejudice* in its entirety;
9. Mrs. Mintz's § 1983 claim for loss of consortium is dismissed *without prejudice*;
10. The remainder of the complaint survives.¹

BY THE COURT:

/s/ Lawrence F. Stengel
LAWRENCE F. STENGEL, J.

¹ Plaintiffs are granted leave to file an amended complaint within fourteen (14) days of this Order, if they can in good faith, as to those claims dismissed without prejudice. These claims are factually, not legally, deficient, and thus a curative amendment would not necessarily be futile. Phillips v. County of Allegheny, 515 F.3d 224, 245-46 (3d Cir. 2008). If Plaintiffs do not file an amended complaint within fourteen (14) days of this Order, these claims will be dismissed with prejudice.